

FILED

MAY 12 2016

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 16-90071 and 16-90072

ORDER

THOMAS, Chief Judge:

Complainant, a pro se prisoner, alleges that a district judge and a magistrate judge improperly dismissed his civil complaint as frivolous. These allegations relate directly to the merits of the judges’ rulings and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the judges have not yet ruled on his first amended complaint. However, complainant offers no evidence that any delay is based on improper motive, or that the judges have habitually delayed ruling in a significant number of unrelated cases, and accordingly this charge must be dismissed. See Judicial-Conduct Rule 3(h)(3)(B); In re Complaint of Judicial Misconduct, 584 F.3d 1230, 1231 (9th Cir. Jud. Council 2009).

Complainant further alleges that the judges are “unable and unwilling to impose their authority” and speculates that the judges may be aware of or involved

in a prison “scheme operation.” Adverse rulings are not proof of conspiracy, and complainant provides no objectively verifiable evidence to support these allegations, which must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 631 F.3d 961, 963 (9th Cir. Jud. Council 2011); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

Complainant’s allegations against prison staff and other state employees must be dismissed, as this misconduct complaint procedure only applies to federal judges. See In re Complaint of Judicial Misconduct, 632 F.3d 1287, 1288 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 4.

DISMISSED.